

**BOARD OF APPEALS CASE NO. 4934**

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**BEFORE THE**

**APPLICANT: Stanley Morris**

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**ZONING HEARING EXAMINER**

**REQUEST: Variance for a carport and  
shed within the required front yard  
setback; 825 Woodmont Court, Joppa**

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**OF HARFORD COUNTY**

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**Hearing Advertised**

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**Aegis: 6/23/99 & 6/30/99**

**HEARING DATE: August 4, 1999**

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**Record: 6/25/99 & 7/2/99**

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### **ZONING HEARING EXAMINER'S DECISION**

The Applicant, Stanley Morris, appeared before the Hearing Examiner requesting a variance to Section 267-26(C)(4) of the Harford County Code, to allow a carport and shed within the required front yard setback in an R3 District.

The subject parcel is located at 825 Woodmont Court in the First Election District. The parcel is identified as Parcel No. 138, in Grid 1-C, on Tax Map 69. The parcel contains .17 acres, more or less, all of which is R3.

Mr. Stanley Morris appeared and testified that the subject parcel is improved by a single-family dwelling with an attached deck, a parking pad and a shed with dimensions of 10 feet by 10 feet. The witness said that the shed and parking pad are located within the setback area off of Fort Hoyle Road. The Applicant said that he sought and obtained a permit from the Department of Public Works to construct a driveway from Fort Hoyle Road to the rear of the subject parcel. The witness said the subject parcel is unique because it has frontage on Woodmont Court and Fort Hoyle Road and, therefore, he must comply with two front yard setbacks.

Mr. David Miceli appeared and said that he did not feel approval of the variance would be detrimental to his property and recommended approval of the variance.

Ms. Daphne Mayo appeared and testified that she did not feel approval of the variance would have an impact on her property.

Mr. Robert Howell appeared and testified that he did not feel the variance would have an impact on his property.

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Mr. Anthony McClune, Manger, Division of Land Use Management for the Department of Planning and Zoning appeared and testified that a Staff member had visited the subject parcel and that the Staff has reviewed the application. Mr. McClune said that the subdivision was designed to orient the dwellings along Woodmont Court away from Fort Hoyle Road. He said the Applicant received an access permit from the Department of Public Works to construct a driveway from the rear of the parcel to Fort Hoyle Road. However, Mr. McClune pointed out that the permit is for access and a driveway, which are permitted within the front yard setback. Mr. McClune went on to explain that there is sufficient area on the subject parcel to locate both the carport and the shed without encroaching into the setback along Fort Hoyle Road. He said the lot is not unique compared to other lots in the subdivision and that other lots in the subdivision are double-frontage lots. He said the lot is generally level with no severe slopes and explained that no topographic conditions necessitate the location of the shed or carport in the proposed location instead of where they are permitted on the lot.

Mr. McClune went on to testify that the subdivision plan for Magnolia Farms required landscaping to the rear of the subject parcel and that the Applicant has removed the landscaping from the area designated on the subdivision plan. Mr. McClune also testified that the Applicant had not secured a building permit for the shed, which is presently located within the front yard setback.

Ms. Joan Gardiner appeared and testified that she resides at 823 Woodmont Court and that her parcel adjoins the Applicant's parcel. Ms. Gardiner testified that she was opposed to the Applicant's request and said that there is sufficient area on the parcel for the Applicant to locate the shed and carport. Ms. Gardiner said that by locating the shed and carport outside of the required setback area, a safety hazard would be created because it could create a visibility problem for traffic on Fort Hoyle Road and, particularly traffic going to the public school located on Fort Hoyle Road within the immediate area.

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**CONCLUSION:**

The Applicant is requesting a variance to Section 267-26(C)(4) of the Harford County Code, to allow a carport and shed within the required front yard setback in an R3 District.

Section 267-26(C)(4) provides:

“Use limitations. In addition to the other requirements of this Part 1, an accessory use shall not be permitted unless it strictly complies with the following:

- (4) No accessory use or structure shall be established within the required front yard, except agriculture, signs, fences, walls or parking area and projections or garages as specified in § 267-23C, Exceptions and modifications to minimum yard requirements.”

Section 267-11 permits variance, provided the Board finds that:

- (1) By reason of the uniqueness of the property or topographical conditions, the literal enforcement of this Code would result in practical difficulty or unreasonable hardship.
- (2) The variance will not be substantially detrimental to adjacent properties or will not materially impair the purpose of this Code or the public interest.

The testimony indicates that the Applicant has placed a 10 foot by 10 foot shed within the front yard setback without obtaining a permit. The Applicant has received an access permit from the Department of Public Works to construct a driveway from the rear of his parcel to Fort Hoyle Road. In addition to the driveway, the Applicant has constructed a parking pad within the setback and is now requesting approval of a variance to place a carport over the parking pad.

Where the granting of a variance as to setback and area restrictions would affect the aesthetic ambience of the residentially zoned properties in the immediate area, such action would be in disharmony with the spirit and intent of the regulation. Diehl v. County Board of Appeals of Baltimore County, 258 Md. 157 (1970).

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The need sufficient to justify an exception must be substantial and urgent and not merely for the convenience of the Applicant. Inasmuch as the aim of the ordinance is to prevent exceptions as far as possible and a liberal construction allowing exceptions for reasons that are not substantial and urgent would have the tendency to cause discrimination and eventually destroy the usefulness of the ordinance. Carey v. City of Baltimore, 201 Md. 130 (1952).

The testimony of Mr. McClune indicated that the subdivision plan for the Applicant's parcel requires landscaping within the rear yard setback. The uncontradicted testimony indicates that the Applicant has removed the landscaping and replaced it with a parking pad and a shed. Further, Mr. McClune testified that there is nothing unique about the subject property when compared to other lots in the subdivision that have frontage on Fort Hoyle Road or Trimble Road.

It is the finding of the Hearing Examiner that the subject parcel is not unique and that allowing the Applicant to place a shed and carport within the required setback would be in disharmony with the spirit and intent of the Zoning Code.

Therefore, it is the recommendation of the Hearing Examiner that the requested variance to allow a shed and a carport in the setback area be denied since the uncontradicted testimony of Mr. McClune was that there is sufficient room to place both structures on the subject parcel without the need for a variance.

Date AUGUST 19, 1999

  
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L. A. Hinderhofer  
Zoning Hearing Examiner